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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/714,765	11/17/2003	Salvatore J. Puleo SR.	NATREE 3.1-004US	3342
39428	7590	06/24/2005	EXAMINER	
BRIAN K. JOHNSON, ESQ., LLC. P.O. BOX 209 MIDDLETON, NJ 07748			HAN, JASON	
			ART UNIT	PAPER NUMBER
			2875	
DATE MAILED: 06/24/2005				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/714,765	Applicant(s) PULEO, SALVATORE J.	
	Examiner Jason M. Han	Art Unit 2875	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-19 and 21-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 12-19 and 21-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 April 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>20050422</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Information Disclosure Statement

1. The information disclosure statement filed April 22, 2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Response to Arguments

2. Applicant's arguments filed May 23, 2005 have been fully considered but they are not persuasive.

3. With regards to applicant's argument, "As a first matter, overheating is not mentioned as a problem to be addressed anywhere in Pietrantonio. In fact, Pietrantonio suggests using low voltage light sources and current adapters to avoid this problem, thus teaching away from the need for solving an overheating problem [Pages 8-9]", it is not necessary that the prior art teach or address the problem, but that it would have been obvious to one of ordinary skill in the art to make such a combination with appropriate motivation. In this case, the examiner combined Pietrantonio with Kacheria under the motivation to further dissipate heat away from the system. Regardless, applicant's statement is contradictory considering Pietrantonio's said suggestion of low voltage light sources and current adapters. In addition, adding the vent cover of Kacheria to Pietrantonio

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would not teach away but further support dissipation of heat away from the system.

4. With regards to applicant's argument, "These bases are presumably used with different types of lighted displays (i.e. not trees) and there is no suggestion or motivation within the Pietrantonio et al. reference to modify or combine its teachings with any reference, including Kacheria, so as to provide the weather protection that Kacheria does [Page 9]", the prior art of record are considered analogous to one another with respect to lighting assembly bases with fiber optics, and the motivation to combine was considered by the examiner to be obvious since one would want to incorporate a weather-resistant housing to a Christmas tree base when placed outside of a building. In addition, with regards to the orientation of said bases, the combination was made using Figure 2 of Pietrantonio and not the general bases referred to by the applicant in Figures 8-10, and thus, said argument is considered not applicable and moot.

5. With regards to applicant's argument, "In this regard, the combined invention would not contain all the limitations of the claimed invention", the prior art of record remains commensurate to the scope of the claims as stated by the applicant and broadly interpreted by the examiner [MPEP 2111].

6. With regards to applicant's argument concerning Claim 13, the examiner relied on Pietrantonio's principle teaching [Figure 7] of an access door for electrical components within an inner volume. It is considered obvious that one could incorporate such an access door on the shell of the Christmas tree in Figure 2 of Pietrantonio.

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7. Applicant's arguments with respect to Claims 14-19 and 21-27 have been considered but are moot in view of the new ground(s) of rejection.

Double Patenting

8. Claim 16 is objected to under 37 CFR 1.75 as being a substantial duplicate of Claim 15. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

9. Claim 22 is objected to under 37 CFR 1.75 as being a substantial duplicate of Claim 21. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

10. Claims 19 and 24 are rejected under 35 U.S.C. 102(b) as being anticipated by Benes (U.S. Patent 5161874).

11. With regards to Claim 19, Benes discloses a stand [Figure 1: (B)] for holding a fiber-optic decoration [Figure 3: (C)] including an access door disposed

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on the stand for accessing the electrical components within an inner volume of said stand and a safety mechanism that prevents said access door from being opened when electrical power is applied to said electrical components [Column 2, Lines 41-44; Column 3, Lines 50-68].

12. With regards to Claim 24, Benes discloses the safety mechanism being an actuating switch that disconnects power to the electrical components when the access door is opened [Column 3, Lines 54-61].

13. Claims 25 and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Benes (U.S. Patent 5161874).

14. With regards to Claim 25, Benes discloses a holder for mounting electrical components used within a decorative lighting system [Figure 3], and including a safety mechanism that prevents said holder from being accessed within said decorative lighting system when electrical power is applied to the electrical components [Column 2, Lines 41-44; Column 3, Lines 50-68].

15. With regards to Claim 27, Benes discloses the safety mechanism being an actuating switch [Figures 2-3: (14, 16)] that disconnects power to the electrical components when said switch is released [Column 3, Lines 54-61].

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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16. Claims 12-13 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pietrantonio et al. (U.S. Patent 4858086) in view of Kacheria (U.S. Patent 5779353).

17. With regards to Claim 12, Pietrantonio discloses internal illuminated decorative displays including Christmas trees having a shell/stand with an inner volume for housing electrical components [Figure 2: (18)] and a receptacle [Figure 2: (15)] configured to hold a fiber-optic decoration [Figure 2: (10); see also Abstract].

Pietrantonio does not teach the shell/stand further incorporating an additional support or a cover disposed atop the shell as a means for ventilation.

Kacheria teaches a weather-protected lighting apparatus and method whereby lighting fixtures, systems, and method for illuminating optical fibers and surrounding environment incorporate light sources into separate weather-resistant housings that provide improved air flow for cooling the internal light source [see Abstract]. Kacheria corroborates the above teaching via a stand wherein a shell [Figures 1&2: (9)] is coupled to a support system [Figures 1&2: (11)], and a cover [Figures 1&2: (29, 31)] is disposed atop and extended beyond a lateral surface of the shell such that the cover has at least one hole on the cover's downward-facing surface.

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Pietrantonio to incorporate the heat transfer/weather-protecting method of Kacheria in order to provide appropriate

heat dissipation for the shell/stand in addition to protection from weather extremes, thus offering a safer operation.

18. With regards to Claim 13, Pietrantonio further teaches a wreath having a door [Figure 6: (75)] for the need of replacing a light source [Figure 6: (74)]. It would have been obvious to further incorporate such a door on the shell/stand of Pietrantonio so as to provide means for access or repair of the electrical components therein.

19. Claims 14 and 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pietrantonio et al. (U.S. Patent 4858086) in view of Kacheria (U.S. Patent 5779353) as applied to Claim 13 above, and further in view of Benes (U.S. Patent 5161874).

Pietrantonio in view of Kacheria discloses the claimed invention as cited above, but does not specifically teach a safety mechanism that prevents the access door/panel from being opened when the electrical power is applied to the electrical components of the device.

Benes teaches an optical fiber illumination device including a stand having an access panel, whereby a safety mechanism/lock [Figure 3: right side of sliding door; Column 3, Lines 44-49] may be provided to prevent the access door from being opened when electrical power is applied to the electrical components. In addition, Benes teaches (re: Claim 18) the safety mechanism being an actuating switch that disconnects power to the electrical components when the access door is opened [Column 3, Lines 54-61].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Pietrantonio in view of Kacheria to further incorporate the safety mechanism/lock of Benes in order to ensure the device is inoperative when accessing the inner components of the device, and thus providing greater safety, especially in the conditions of extreme weather [i.e. wet conditions].

20. Claims 15-16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Pietrantonio et al. (U.S. Patent 4858086) in view of Kacheria (U.S. Patent 5779353) and Benes (U.S. Patent 5161874) as applied to Claim 14 above, and further in view of Marzec (U.S. Patent 3660798).

Pietrantonio in view of Kacheria and Benes teaches a stand with an access door/panel as cited above.

However, Pietrantonio, Kacheria, nor Benes specifically teaches the safety mechanism being an electrical access opening for accepting an electrical plug, whereby said access door is prevented from opening to enable access to said electrical components when said electrical plug is inserted into said electrical access opening.

Marzec teaches an interlock device whereby an electrical access opening/electrical connector prevents the door/panel from being opened when an electrical plug is accepted therein [see Abstract].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Pietrantonio in view of Kacheria and Benes to further incorporate the interlock device of Marzec, so as to provide a simple

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and inexpensive means for locking said access panel when the device is in operation.

21. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Pietrantonio et al. (U.S. Patent 4858086) in view of Kacheria (U.S. Patent 5779353) and Benes (U.S. Patent 5161874) as applied to Claim 14 above, and further in view of Scalza et al. (U.S. Patent 3910617).

Pietrantonio in view of Kacheria and Benes teaches a stand with an access door/panel as cited above.

However, Pietrantonio, Kacheria, nor Benes specifically teaches the safety mechanism being an electrical lock that locks the access door, whereby the access door is prevented from opening to enable access to the electrical equipment when power is applied to the electrical components.

Scalza teaches a solenoid operated electric strike that may be used in locking a door when power is received by electrical components within the access door. To quote Scalza, "Electrically operable door strikes, also known in the art as electric strikes, electric releases or electric door openers, are well known and are used primarily to control the opening of a door providing access to a space where it is desired to restrict the persons entering such space [Column 1, Lines 11-16].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Pietrantonio in view of Kacheria and Benes to further incorporate the solenoid operated electric strike of Scalza in order to

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provide an electrical means for locking, which can be controlled remotely [see Scalza Column 1, Lines 11-28].

22. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Benes (U.S. Patent 5161874) as applied to Claim 19 above, and further in view of Marzec (U.S. Patent 3660798).

Benes discloses the claimed invention as cited above. In addition, Benes teaches a safety mechanism/lock [Figure 3: right side of sliding door; Column 3, Lines 44-49] that may be provided to prevent the access door from being opened when electrical power is applied to the electrical components, but does not specifically teach the safety mechanism being an electrical access opening for accepting an electrical plug, whereby said access door is prevented from opening to enable access to said electrical components when said electrical plug is inserted into said electrical access opening.

Marzec teaches an interlock device whereby an electrical access opening/electrical connector prevents the door/panel from being opened when an electrical plug is accepted therein [see Abstract].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Benes to further incorporate the interlock device of Marzec, so as to provide a simple, inexpensive, and integral means for providing power, as well as locking said access panel when the device is in operation.

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23. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benes (U.S. Patent 5161874) as applied to Claim 19 above, and further in view of Scalza et al. (U.S. Patent 3910617).

Benes discloses the claimed invention as cited above. In addition, Benes teaches a safety mechanism/lock [Figure 3: right side of sliding door; Column 3, Lines 44-49] that may be provided to prevent the access door from being opened when electrical power is applied to the electrical components, but does not specifically teach the safety mechanism being an electrical lock that locks the access door, whereby the access door is prevented from opening to enable access to the electrical equipment when power is applied to the electrical components.

Scalza teaches a solenoid operated electric strike that may be used in locking a door when power is received by electrical components within the access door. To quote Scalza, "Electrically operable door strikes, also known in the art as electric strikes, electric releases or electric door openers, are well known and are used primarily to control the opening of a door providing access to a space where it is desired to restrict the persons entering such space [Column 1, Lines 11-16].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Benes to further incorporate the solenoid operated electric strike of Scalza in order to provide an electrical means for locking, which can be controlled remotely [see Scalza Column 1, Lines 11-28].

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24. Claim 26 is rejected under 35 U.S.C. 103(a) as being unpatentable over Benes (U.S. Patent 5161874) as applied to Claim 25 above, and further in view of Scalza et al. (U.S. Patent 3910617).

Benes discloses the claimed invention as cited above. In addition, Benes teaches a safety mechanism/lock [Figure 3: right side of sliding door; Column 3, Lines 44-49] that may be provided to prevent the access door from being opened when electrical power is applied to the electrical components, but does not specifically teach the safety mechanism being an electrical lock that locks the access door, whereby the access door is prevented from opening to enable access to the electrical equipment when power is applied to the electrical components.

Scalza teaches a solenoid operated electric strike that may be used in locking a door when power is received by electrical components within the access door. To quote Scalza, "Electrically operable door strikes, also known in the art as electric strikes, electric releases or electric door openers, are well known and are used primarily to control the opening of a door providing access to a space where it is desired to restrict the persons entering such space [Column 1, Lines 11-16].

It would have been obvious to one ordinarily skilled in the art at the time of invention to modify the shell/stand of Benes to further incorporate the solenoid operated electric strike of Scalza in order to provide an electrical means for locking, which can be controlled remotely [see Scalza Column 1, Lines 11-28].

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jason M. Han whose telephone number is (571) 272-2207. The examiner can normally be reached on 8:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Sandra O'Shea can be reached on (571) 272-2378. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

JMH (6/22/2005)


Stephen Husar
Primary Examiner